

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

V.

No: 05-CR-1849 (JH)

DANA JARVIS,

Defendant.

AFFIDAVIT OF ALBERT MARES, INVESTIGATOR

STATE OF NEW MEXICO)
)
) ss
COUNTY OF BERNALILLO)

ALBERT MARES, of full age, being duly sworn, upon his oath deposes and says:

1. I am an investigator duly licensed in the state of New Mexico, license no. 1286.
2. Affiant is a part of the defense team for Dana Jarvis, lead defendant in CR 05-1849 JH, pursuant to the Criminal Justice Act.
3. On October 16, 2007, I met with Mr. Jarvis and Mr. Jarvis advised me that he had given his former counsel Mr. Gorence a significant amount of confidential documents during Mr. Gorence's short representation of him. Mr. Jarvis provided the actual envelope, which I know personally to be shown at Ex. 7 of the privilege log appended to Doc. 1129 Mr. Jarvis advised me that he had all the contents reflected on the index on the outside of the envelope as well as the "Jarvis, Dana" file Mr. Gorence's office had kept on his case until after Attorney

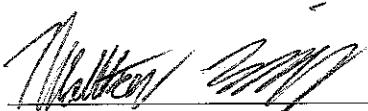
Joe Romero's Motion to Release Mr. Jarvis' funds to retain Mr. Gorence had been denied in mid March 2006. Mr. Jarvis told me he would collect the rest of the documents, including the internal Gorence law office documents and provide them to me if I would come back to visit him in a few days.

4. On October 19, 2007, I returned to visit Mr. Jarvis and collected the remaining documents which now appear in the privilege log. Mr. Jarvis sorted the documents and was able to identify which documents were in the original form as given to Mr. Gorence and which had been copied by Mr. Gorence and had been returned to Mr. Jarvis in the Gorence law office file.
5. It was apparent to me that the documents originated in Mr. Gorence's law office because it would have been impossible for Mr. Jarvis to obtain such documents while Mr. Jarvis was in custody, unless he had received these documents from Mr. Gorence such as internal phone messages taken by "Trish H." and to be posted to the "Jarvis, Dana" file, documents with handwritten post-its from someone in Mr. Gorence's office with the initials "ALM," and original United States District of New Mexico court notices to Mr. Gorence's law office.
6. Included in the documents Mr. Jarvis gave me was an email Mr. Jarvis indicated was given to him in the file Mr. Gorence returned to him. The email was dated January 31, 2006 from Mr. Jarvis' forfeiture counsel, Ms. Hope Eckert, and sent to Mr. Gorence, as attorney to attorney communications on Mr. Jarvis' behalf. The email indicates a print out date of "1/31/06" matching the date sent. The document between counsels and with the printout date matching the date sent, and the fact that Mr. Jarvis had this communication in his possession indicates to me that this document also was from Mr. Gorence's law office.

7. I advised Mr. Jarvis' counsel I had physical possession of the documents received from Mr. Jarvis, including the "Gorence file, the following day, ~~August~~ ^{OCTOBER} 20, 2007.

ALBERT MARES

Sworn to and subscribed before me
on this 26th day of November, 2007.



NOTARY PUBLIC

My commission expires 10/11

